

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE COMMISSIONER OF COMMERCE

In the Matter of the Securities Agent  
License of Alan Andrescu,  
CRD No. 2482248

**FINDINGS OF FACT  
CONCLUSIONS, AND  
RECOMMENDATION**

The above-entitled matter came on for a prehearing conference before Administrative Law Judge Barbara L. Neilson on January 10, 2000, at 1:30 p.m. in the courtrooms of the Office of Administrative Hearings in Minneapolis, Minnesota. David M. Aafedt, Assistant Attorney General, 1200 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, appeared on behalf of the Department of Commerce ("the Department"). There was no appearance by or on behalf of the Respondent, Allen Andrescu, 2957 Hampton Way, Merrick, NY 11735. The record closed at the conclusion of the prehearing conference on January 10, 2000.

**NOTICE**

This Report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact David M. Jennings, Commissioner, 133 East Seventh Street, St. Paul, Minnesota 55101, at (651) 296-2594, to ascertain the procedure for filing exceptions or presenting argument.

**STATEMENT OF ISSUE**

The issue in this case is whether the Respondent, Allen Andrescu, has engaged in fraudulent business practices in connection with the offer, sale or purchase of securities in violation of Minn. Stat. § 80A.01, engaged in the unlicensed sale of unregistered NNPD securities in violation of Minn. Stat. § 80A.04 and 80A.08, and/or failed to observe high standards of commercial honor and just and equitable principles of trade in the conduct of business in violation of Minn. R. 2875.0910, and, if so, whether the Respondent and his license are subject to discipline and/or civil penalties pursuant to Minn. Stat. §§ 80A.07 and 45.027, subds. 6-7.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

### **FINDINGS OF FACT**

1. The Respondent, Allen Andrescu, has been licensed as a securities agent in Minnesota.

2. The Notice of and Order for Hearing and Order for Hearing, Order for Prehearing Conference and Order to Show Cause was served on the Respondent by certified and first class mail at 2957 Hampton Way, Merrick, NY 11735, on November 10, 1999. This is the Respondent's last known address on file with the Department. The Notice of and Order for Hearing and Order for Hearing, Order for Prehearing Conference and Order to Show Cause stated that a prehearing conference would be held on December 16, 1999.

3. The Department's attempt to serve Respondent at the New York address was unsuccessful. As a result, the Department served the Commissioner of Commerce pursuant to Minn. Stat. § 45.028, subd. 2. On December 2, 1999, the Department sent by certified mail a copy of the Notice of and Order for Hearing, Order for Prehearing Conference, and Order to Show Cause to the Office of the Commissioner and to the Respondent at the New York address.

4. The Administrative Law Judge issued an Order on December 17, 1999, continuing the prehearing conference to Monday, January 10, 2000, at 1:30 p.m. This Order was served upon the Respondent on December 17, 1999, at the New York address. The envelope containing the Order was returned by the Postal Service to the Office of Administrative Hearings with a notation that Mr. Andrescu had moved and left no forwarding address.

5. The Notice of and Order for Hearing, Order for Prehearing Conference and Order to Show Cause contained the following language in bold type:

If Respondent fails to attend or otherwise appear at any pre-hearing conference or settlement conference or the hearing in this matter or fails to comply with any interlocutory order of the judge after having been served with a copy of this Order, Respondent shall be deemed in default and the allegations or issues set forth herein may be deemed proved and Respondent's securities agent license may be revoked or suspended or Respondent censured and/or a civil penalty may be imposed against Respondent without further proceedings.

6. The Respondent did not file any Notice of Appearance with the Administrative Law Judge or make any prehearing request for continuance or any other relief. The Respondent did not personally appear at the prehearing conference in this matter scheduled for January 10, 2000, or have an appearance made on his behalf.

7. Because the Respondent failed to appear at the prehearing conference in this matter, he is in default.

8. Pursuant to Minn. Rules part 1400.6000, the allegations contained in the Notice of and Order for Hearing, Order for Prehearing Conference and Order to Show Cause are hereby taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Administrative Law Judge and the Commissioner of Commerce have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50, 45.027, and 80A.07.

2. The Notice of Hearing issued by the Department was proper and the Department has fulfilled all relevant substantive and procedural requirements of law and rule.

3. The Respondent, having made no appearance at the prehearing conference, and not requesting any continuance or relief, is in default. Pursuant to Minn. Rules part 1400.6000, the allegations contained in the Notice of and Order for Hearing, Order for Prehearing Conference and Order to Show Cause are hereby taken as true.

4. The Respondent has violated Minn. Stat. § 80A.01, 80A.04, and 80A.08, and Minn. R. 2875.0910. The Respondent and his license are subject to discipline and/or civil penalties pursuant to Minn. Stat. §§ 82A.07 and 45.027, subds. 6-7.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS HEREBY RECOMMENDED that the Commissioner of Commerce take disciplinary action against the securities agent license of Andrew Andrescu and impose an appropriate civil penalty.

Dated this 21<sup>st</sup> day of January, 2000.

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BARBARA L. NEILSON  
Administrative Law Judge

## **NOTICE**

Pursuant to Minn. Stat. § 14.62, subd. 1, the Agency is required to serve its final decision upon each party and the Administrative Law Judge by first-class mail or as otherwise provided by law.

Reported: Default.